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HOUSE BILL 561

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Patricia A. Lundstrom

AN ACT

RELATING TO QUALIFIED ASSISTANCE ANIMALS; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 28-11-1.1 NMSA 1978 is enacted
to read:

"28-11-1.1. [NEW MATERIAL] SHORT TITLE.--Chapter 28,
Article 11 NMSA 1978 may be cited as the "Assistance Animal
Act"."

Section 2. Section 28-11-2 NMSA 1978 (being Laws 1989,
Chapter 242, Section 1, as amended by Laws 1999, Chapter 262,
Section 1 and also by Laws 1999, Chapter 288, Section 1) is
amended to read:

"28-11-2. DEFINITIONS.--As used in [~~Section 28-11-3 NMSA~~
~~1978, "qualified assistance animal" means:~~

.153692.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~A. a dog trained or being trained by a recognized~~
2 ~~school for training dogs to assist persons with disabilities;~~

3 ~~B. an animal recognized as a service animal~~
4 ~~pursuant to the Americans with Disabilities Act of 1990; or~~

5 ~~C. any other animal approved by the governor's~~
6 ~~committee on concerns of the handicapped as acceptable in~~
7 ~~public places and trained to provide some special assistance to~~
8 ~~a person with a disability.] the Assistance Animal Act,~~

9 "qualified assistance animal" means any assistance dog or other
10 animal that has been or is being trained to provide assistance
11 to an individual with a disability and includes:

12 A. an assistance dog that has been or is being
13 trained as a guide dog, hearing dog or service dog;

14 B. a guide dog that has been or is being trained to
15 aid a blind or visually impaired person;

16 C. a hearing dog that has been or is being trained
17 to aid a deaf or hearing-impaired person; and

18 D. a service dog that has been or is being trained
19 to aid a person with a disability other than a sight or hearing
20 impairment."

21 Section 3. Section 28-11-3 NMSA 1978 (being Laws 1989,
22 Chapter 242, Section 2, as amended by Laws 1999, Chapter 262,
23 Section 2 and also by Laws 1999, Chapter 288, Section 2) is
24 amended to read:

25 "28-11-3. ADMITTANCE OF QUALIFIED ASSISTANCE ANIMALS.--

.153692.1

underscored material = new
[bracketed material] = delete

1 Notwithstanding any other provision of law:

2 A. A qualified assistance animal shall be admitted
3 to any building open to the public and to all public
4 accommodations such as restaurants, hotels, hospitals, swimming
5 pools, stores, common carriers and theaters; provided that the
6 qualified assistance animal is under the control of [~~a person~~
7 ~~with a disability~~] an owner or a trainer of the qualified
8 assistance [~~animals~~] animal. No person shall be required to
9 pay any additional charges for [~~his~~] the qualified assistance
10 animal, but shall be liable for any damage done by [~~his~~] the
11 qualified assistance animal.

12 B. In an emergency requiring transportation or
13 relocation of the owner or trainer of the qualified assistance
14 animal, to the extent practicable, accommodations shall be made
15 for the qualified assistance animal to remain or be reunited
16 with the owner or trainer."

17 Section 4. Section 28-11-4 NMSA 1978 (being Laws 1989,
18 Chapter 242, Section 3) is amended to read:

19 "28-11-4. PENALTY.--~~[Any]~~ A person who violates [~~any~~] a
20 provision of [~~Section 1 or 2 of this act~~] the Assistance Animal
21 Act shall be guilty of a misdemeanor and, upon conviction,
22 shall be sentenced in accordance with the provisions of Section
23 31-19-1 NMSA 1978."

24 Section 5. Section 28-11-5 NMSA 1978 (being Laws 1999,
25 Chapter 113, Section 1) is amended to read:

.153692.1

underscored material = new
[bracketed material] = delete

1 "28-11-5. FINDINGS AND PURPOSE--INTERFERENCE WITH
2 QUALIFIED ASSISTANCE [DOG] ANIMALS PROHIBITED--CRIMINAL AND
3 CIVIL PENALTIES.--

4 A. The legislature finds that unrestrained dogs
5 constitute a danger to qualified assistance [dogs] animals and
6 public safety. The purpose of this section is to protect
7 persons with disabilities and qualified assistance [dogs]
8 animals from attack by unrestrained dogs.

9 ~~[B. As used in this section, "assistance dog" means~~
10 ~~a dog that has been or is being trained for persons with a~~
11 ~~hearing, sight or other physical disability or impairment.~~

12 ~~G.] B.~~ It is unlawful for any person, with no legal
13 justification, to:

14 (1) intentionally interfere with the use of a
15 ~~[service dog]~~ qualified assistance animal by harassing or
16 obstructing the ~~[service dog user]~~ owner or trainer of the
17 qualified assistance animal or the ~~[service dog]~~ qualified
18 assistance animal; or

19 (2) intentionally fail or refuse to control
20 ~~[his animal]~~ the person's unrestrained dog, and ~~[the animal]~~
21 that dog interferes with or obstructs the ~~[service dog user]~~
22 owner or trainer of the qualified assistance animal or the
23 ~~[service dog]~~ qualified assistance animal.

24 ~~[D.] C.~~ The provisions of this section shall not
25 apply to ~~[animals]~~ unrestrained dogs on private property not

underscored material = new
[bracketed material] = delete

1 open to the public.

2 [E-] D. A person who violates the provisions of
3 this section is guilty of a misdemeanor and upon conviction
4 shall be punished pursuant to Section 31-19-1 NMSA 1978. A
5 person convicted under this section may be ordered to pay
6 restitution, including the cost of veterinary bills and
7 replacement and training costs of ~~[the service]~~ a qualified
8 assistance animal, if ~~[required]~~ such costs are incurred as a
9 result of the violation.

10 [F-] E. Nothing in this section shall be construed
11 to preclude any other remedies otherwise available pursuant to
12 common law or the NMSA 1978.

13 ~~[G. As used in this section, "assistance animal"~~
14 ~~includes an animal recognized as a service animal pursuant to~~
15 ~~the Americans with Disabilities Act of 1990.]"~~